

# **THE MINNESOTA URBAN AND RURAL HOMESTEADING PROGRAM (INTERIM - FEE SIMPLE)**

## **PROCEDURAL MANUAL**

**(For Properties Acquired With a HOME Grant from MHFA After March 2006)**



**MINNESOTA HOMES DIVISION**

**April 2008**

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## **AMERICANS WITH DISABILITIES ACT NOTICE TO THE PUBLIC**

It is the policy of the Minnesota Housing Finance Agency to comply with the provisions of the Americans with Disabilities Act, 42 U.S.C. A. Section 1201, et seq. ("ADA"). The ADA prohibits discrimination against qualified individuals with disabilities on the basis of their disability. The ADA provides, in part, that qualified individuals with disabilities shall not be excluded from participating in or be denied the benefits of any program, service, or activity offered by this Agency.

The ADA requires that all programs, services and activities, when viewed in their entirety, are readily accessible to, and usable by, qualified individuals with disabilities. This Agency must communicate effectively with individuals with speech, visual, and hearing impairments and provide auxiliary communication aids to qualified individuals with disabilities participating or benefiting from this Agency's programs, services or activities to afford equal opportunity.

Should you wish to review the ADA or its interpretive regulations, ask questions about your rights and remedies under the ADA, request a reasonable modification to this Agency's policies, practices or procedures, or file a written grievance with this Agency alleging noncompliance with the ADA, please contact the Agency's Designated Coordinator for the ADA listed below:

Name: Barb Collins  
Address: 400 Sibley Street, Suite 300  
St. Paul, MN 55101-1998

Telephone Numbers:

Voice: 651-297-3122  
TTY: 651-297-2361

## **CHAPTER ONE: GENERAL INFORMATION**

### **I. THE MINNESOTA URBAN AND RURAL HOMESTEADING PROGRAM- INTERIM FEE SIMPLE (MURL)**

The MURL Program provides homeownership opportunities to homebuyers who will assist in stabilizing declining neighborhoods. The Program is designed to arrest or prevent the spread of blight and preserve the existing housing stock or replace dilapidated single family properties by providing funding for the purchase and rehabilitation or demolition/new construction of single family units which are sold to low income persons and families.

### **II. THE MURL PROCEDURAL MANUAL**

This Procedural Manual, including subsequent changes and additions, is a supplement to the Grant Funding Agreement, executed by the Eligible Organization and MHFA, as amended by the "Addendum to Grant Funding Agreement, The Minnesota Urban and Rural Homesteading Program: 2006 HOME funds". It is incorporated into the Grant Funding Agreement by reference and is a part thereof as fully as if set forth in the Grant Funding Agreement at length.

This Procedural Manual sets forth the terms and conditions under which the MHFA will award grant funds to Eligible Organizations to administer the Program. The MHFA is under no obligation to disburse funds for grants that do not fully comply with this Procedural Manual, including schedules and requirements for supporting documentation regarding such grants.

Eligible Organizations may request, in writing to the MHFA, waivers, alterations or revisions to this Procedural Manual. Waivers, alterations or revisions may, if allowed by statute or rule, be granted at the sole discretion of MHFA.

Eligible Organizations are cautioned that many requirements of this Procedural Manual (see below) are a result of HOME Program requirements. The funds awarded under the MURL Program are funded with HOME dollars and are subject to federal regulations. The MHFA may not be able to waive/alter current Program requirements to meet special requests for Program waivers, alterations, or revisions.

This Procedural Manual fully incorporates the Federal HOME Regulations, 24 CFR Part 92 - HOME Investment Partnerships Program, as amended and/or revised from time to time.

### **III. AMENDMENTS / DIRECTIVES**

The MHFA from time-to-time may make changes to this Procedural Manual. Any changes in guidelines and procedures will be communicated to all Eligible Organizations through the posting of Program Updates/News Alerts on the MHFA website ([www.mhfa.state.mn.us](http://www.mhfa.state.mn.us)). Amendments to this Procedural Manual will be effective as of the date of issue unless otherwise stated and shall be binding upon all participants in the MURL Program.

### **IV. NO RIGHT TO ASSIGN AGREEMENT**

No agreements executed between an Eligible Organization and the MHFA are assignable without prior written approval from the MHFA.

### **V. FEDERAL AND STATE REGULATIONS**

Nothing in this Procedural Manual shall be construed in any way to conflict with, alter, or amend any federal or state laws, or regulations applicable to the MHFA, or an Eligible Organization.

### **VI. AUDITS**

The MHFA, Legislative Auditors for the State of Minnesota, HUD and the Comptroller General of the United States, or any of their representatives, shall have the right, upon reasonable notice and during normal working hours, to have access to examine any pertinent books, documents, papers or other records of the Eligible Organization relating to the Eligible Organization's participation in this Program in order to make audits, examination, excerpts, and/or transcripts. The MHFA may request all documents be delivered to the MHFA upon request. The MHFA reserves the right to make site visits at any stage of the process, from acquisition through the affordability period, with reasonable notice to the Eligible Organization and/or the homeowner.

### **VII. EVIDENCE OF MISCONDUCT**

All participants in the MURL Program are reminded that MHFA will enforce all provisions under such Program and refer any evidence of fraud, misrepresentation, or other misconduct in connection with the operation of the Program to the appropriate state or federal authority for appropriate legal action.

### **VIII. COMPLIANCE WITH PRIVACY STATUTES**

#### **A. Disclosures and Notices**

The Minnesota Government Data Practices Act (MGDPA) requires that certain disclosures be made to individuals when requesting that they provide data the government has categorized as private. This disclosure is called a "Tennessee Warning." The warning informs the individual of the purpose and intended use of the data; whether the individual may refuse or is legally required to supply the

data; any consequences of either supplying or refusing to supply the data; and the identify of other persons or entities that are authorized by law to receive the data.

In addition to MGDPA, the federal Privacy Act of 1974 governs when an individual's social security number may be required.

Before requesting private data on an individual applying to purchase a MURL home, the Eligible Organization shall ensure that the individual receives the state-required Tennessen Warning and the notice required by the federal Privacy Act of 1974 regarding disclosure and use of Social Security Numbers. Eligible Organizations that are governmental entities shall use a form prescribed or approved by their Responsible Authority, as that position is defined in MGDPA, Section 13.02, subdivision 16. All other Eligible Organizations shall use the form provided by MHFA, which combines the Tennessen Warning and Privacy Act notice.

#### B. Privacy

The Minnesota Legislature, in Minnesota Statutes 462A.065, provides that financial information including, but not limited to, credit reports, financial statements, and net worth calculations received or prepared by MHFA regarding any MHFA loan are "private data on individuals," pursuant to Section 13.02, subdivision 12 of Minnesota Statutes. Those statutes provide that the use of such private data is limited to that necessary for the administration and management of these programs by MHFA personnel or those under contract with MHFA and, in instances where access to this data is authorized by state or federal law, it may be made available to other governmental entities. In accordance with the above, Eligible Organizations are obligated to administer the private data on individuals made available to them in accordance with the provisions of the statutes cited above.

#### C. Suggested Format for Tennessen Warning and Privacy Act Notice

For an example of a Combined Tennessen Warning and Privacy Act Notice, see Appendix Three of this Procedural Manual.

## **CHAPTER TWO: ORGANIZATION ELIGIBILITY AND PARTICIPATION**

### **I. ELIGIBLE ORGANIZATIONS**

Eligible Organizations applying for participation in the MURL Program must provide an application in a form prescribed by MHFA. They must also submit the “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions.”

An Eligible Organization must be either a political subdivision, or a nonprofit entity as defined by MHFA, a housing and redevelopment authority, or other organization designated by MHFA, that has as a primary purpose the provision or development of affordable housing to low- and moderate-income persons or Households in Minnesota. Nonprofits holding a Community Housing Development Organization (CHDO) designation from MHFA receive priority in funding. A nonprofit must contact MHFA for a list of requirements and an application to apply and qualify for designation as a Community Housing Development Organization.

### **II. LOCAL NEIGHBORHOOD ADVISORY BOARD**

Under the Program, a Local Neighborhood Advisory Board for each Designated Area must be established by the Eligible Organization that will be made up of volunteer residents from the Designated Area surrounding each property acquired under the Program that reflects the racial composition of that area.

The Advisory Board is responsible for the following:

- Recommending to the Eligible Organization properties that may be acquired within the Designated Area.
- Assist the Eligible Organization in providing ongoing assistance to eligible homebuyers.



### **III. CONFLICT OF INTEREST**

No person who is an employee, agent, consultant, officer, or elected or appointed official of the State of Minnesota and who exercises or has exercised any functions or responsibilities with respect to activities assisted with HOME Funds obtained under the HOME Program or who are in a position to participate in a decision-making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from a HOME assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds there under, either for themselves or those with whom they have family or business ties, during their employment or for one year thereafter. No officer, employee, agent, elected or appointed official, or consultant of the Eligible Organization may occupy a unit developed by the Eligible Organization and assisted with funds from the Program. MHFA may grant an exception to this limitation in accordance with the provisions of Section 92.356 (f) (2) of the HOME Regulations.

## **CHAPTER THREE: PROPERTY REQUIREMENTS AND REHABILITATION**

### **I. DESIGNATED AREA**

The Eligible Organization, with the input from the Advisory Board, shall select and acquire Eligible Properties within the Designated Area and then contract with businesses or organizations for the rehabilitation of each Eligible Property and/or for the demolition of the existing structure and new construction of a single family unit. (See Chapter Three; Part XV for restrictions on Acquisition/Demolition/New Construction.) The Designated Area in which Program funds are ultimately used must comply with the area specified in the Eligible organizations response to a Request for Proposal.

### **II. CONFIGURATION, TYPES & USES OF ELIGIBLE PROPERTIES**

An Eligible Property is a single family residential property, located within a Designated Area, that is vacant, condemned, abandoned, or identified as desirable for purchase by the Eligible Organization which, if rehabilitated or replaced, will prevent or arrest the spread of blight.

The following are not eligible under the MURL Program:

- Properties containing two or more units,
- Condominiums,
- Townhouses within a planned unit development,
- Mobile Homes,
- Property that is intended to be an investment property,
- Property that is intended for recreational homes, in addition
- No part of the residence may be specifically designed for commercial use,
- No more than 15% of the total area of the residence may be used in a trade or business except for in-home day care facilities in which case 49% of the total area may be used.

All Eligible Properties must meet the Environment Review Requirements of HOME Regulations, Section 92.352.

### **III. COST LIMITATION**

The total HOME development cost of acquiring and rehabilitating the Eligible Property, including closing costs, development costs, and all other costs associated with the development of an Eligible Property that are paid for with HOME funds may not

exceed the following limits. However, total development costs may exceed these limits if other funds that are not from the HOME program are used to cover the difference.

Current limits are listed below. MHFA will provide updates as they become available:

Area	2 BD	3BD	4 BD
Metro Area	\$160,212	\$207,259	\$227,508
Southeastern Minnesota	\$151,534	\$196,033	\$215,185
Western Minnesota	\$144,858	\$187,397	\$205,705
Northeastern Minnesota	\$153,537	\$198,623	\$218,029
Central Minnesota	\$150,199	\$194,306	\$213,289

**Metro**=Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington.

**Southeastern**=Blue Earth, Brown, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Houston, Le Sueur, Martin, Mower, Nicollet, Olmsted, Rice, Steele, Wabasha, Waseca, Watonwan, and Winona

**Western**=Aitkin, Becker, Beltrami, Big Stone, Cass, Chippewa, Clay, Clearwater, Cottonwood, Crow Wing, Douglas, Grant, Hubbard, Jackson, Kanabec, Kandiyohi, Kittson, Lac Qui Parle, Lincoln, Lyon, Mahnomen, Marshall, Meeker, Mille Lacs, Morrison, Murray, Nobles, Norman, Otter Tail, Pennington, Pine, Pipestone, Polk, Pope, Red Lake, Redwood, Renville, Rock, Roseau, Stevens, Swift, Todd, Traverse, Wadena, Wilkin, and Yellow Medicine

**Northeastern**=Carlton, Cook, Itasca, Koochiching, Lake, Lake of the Wood, and St. Louis

**Central**=Benton, Chisago, Isanti, McLeod, Sherburne, Sibley, Stearns, and Wright.

#### IV. ACQUISITION OF PROPERTY -- GENERAL

The Eligible Organization shall conduct real property acquisitions in accordance with the Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs contained in 49 CFR Part 24.

No property assisted under the MURL Program may be acquired through condemnation or eminent domain.

#### V. ACQUISITION PROCEDURE

- A. Acquisition of real property by an Eligible Organization that possesses the power of eminent domain must meet the following standards:
  1. The acquisition must be a voluntary, arm's length transaction.
  2. The Eligible Organization must inform the owner in writing that it will not use its power of eminent domain to acquire the property if negotiations fail to result in an

amicable agreement. The notice must be in writing and provided before the seller enters into the contract sale on which the purchase is based.

3. If no specific site or property is designated for acquisition, the Eligible Organization must limit its search for sites within the Designated Area. Where an Eligible Organization wishes to purchase more than one site within a Designated Area, all owners are to be treated similarly. The property to be acquired shall not be part of an intended, planned, or designated project area where all or substantially all of the properties within the area are to be acquired within specific time limits.

4. The Eligible Organization must inform the owner of its estimate of the Fair Market Value of the property. The notice must be in writing and provided before the seller enters into the contract for sale on which the purchase is based. *Estimated Fair Market Value of the property may be obtained from the Property tax statements, the County Recorder's Office, a Realtor's evaluation or through an independent appraisal of the property. The file must contain evidence of how the fair market value was determined.*

5. The notifications required under 2 and 4 above must be made in a form substantially similar to the Disclosures to Seller with Voluntary, Arm's Length Purchase Offer--Government Buyer.

B. Acquisition of real property by an Eligible Organization that does not possess the power of eminent domain must meet the following standards:

1. The Eligible Organization must inform the seller that it does not have the power of eminent domain and, therefore, will not acquire the property if negotiations fail to result in an amicable agreement.

2. The Eligible Organization must inform the owner of its estimate of the Fair Market Value of the property. The notice must be in writing and provided before the seller enters into the contract for sale on which the purchase is based. *Estimated Fair Market Value of the property may be obtained from the property tax statements, the County Records Office, a Realtors evaluation or through an independent appraisal of the property. The file must contain evidence of how the fair market value was determined.*

3. The notifications required under 1 and 2 above must be made in a form substantially similar to Disclosures to Seller with Voluntary Arm's Length Purchase Offer Non-Profit Buyer prior to entering into a contract of sale.

## **VI. SCOPE OF WORK AND COST ESTIMATES**

The Eligible Organization shall prepare a Scope of Work based upon an initial inspection of a property that will be the basis for bids from contractors.

The Eligible Organization should have the capacity to estimate the cost of essential work so they can evaluate the feasibility of rehabilitation/replacement and reasonableness of bids from contractors.

## **VII. TITLE EXAMINATION REQUIREMENTS**

At the time an Eligible Organization acquires title to an Eligible Property, the title for that Eligible Property must be established by way of an attorney's legal title opinion or a title policy showing the Eligible Organization is acquiring clear and marketable title.

## **VIII. CONTRACTOR LICENSING**

Contractors must supply a copy of their license or a written explanation of why they are exempt. This information must be kept in the Eligible Organization's file.

## **IX. OUTREACH TO MINORITY AND WOMEN-OWNED BUSINESSES**

The Eligible Organization must take and document its affirmative steps to assure that minority firms and women's business enterprises are used when possible.

This shall be specifically accomplished by the Eligible Organization complying with the following requirements:

- A. Placing qualified small, minority and women's business enterprises on solicitation lists the Eligible Organization may maintain.
- B. Assuring that small, minority and women's business enterprises are solicited whenever they are potential sources.
- C. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small, minority, or women's business enterprises.
- D. Establishing delivery schedules, where the requirement permits, which encourage participation by small, minority, or women's business enterprises.
- E. Using the services and assistance of the Small Business Administration *or* the Minority Business Development Agency of the Department of Commerce, in identifying minority and women business enterprises.

Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above.

## **X. BIDDING AND CONTRACTING THE WORK**

MHFA recommends that the Eligible Organization create forms for developing a Scope of Work and preparing bids that will make this stage of the rehabilitation process operate smoothly.

- Whenever feasible, at least two competitive bids should be sought for the proposed improvements. If only one bid is received, written documentation relating to the cost reasonableness of the bid must be prepared and made available to the MHFA. This could include comparing bids from similar activities or using a cost estimating software.
- Only the accepted bid(s) are submitted to MHFA, but MHFA may request to see all bids.
- An Eligible Organization may reject all bids if there is good cause.
- Eligible Organizations are required to retain a Bid Summary Sheet in each respective file. This sheet would indicate to whom the entity mailed invitation to bid and which contractor(s) were selected.
- Contracts for the rehabilitation must comply with relevant portions of 24 CFR 85.36(i).
- Selected contractor/subcontractors must sign and agree to the terms of the Section 3 Compliance Plan (See Chapter Six: Reporting/Recordkeeping Requirements).

#### **XI. SWORN CONSTRUCTION STATEMENT AND LIEN WAIVERS**

General contractors are required to execute a Sworn Construction Statement. This document must be retained by the Eligible Organization in each respective loan file.

Eligible Organizations are required to obtain Lien Waivers from the general contractor as well as all subcontractors and material suppliers involved in the project for all of the work performed by the general contractor and subcontractor and all the materials supplied by the materials suppliers.

#### **XII. REHABILITATION -- GENERAL**

The Eligible Property should not require such extensive rehabilitation that the Eligible Organization would be required to hold the property for an extended period of time before it could be sold to a Homebuyer.

The Sales Price of the Eligible Property may not exceed limits set forth in Chapter 5, Section II.

#### **XIII. MINIMUM STANDARDS AND HOUSING QUALITY STANDARD**

Rehabilitation must, at a minimum, meet the state building code. Eligible Organizations must be able to produce evidence that the housing unit meets the state building code. Evidence can be a copy of a certificate of occupancy or a final inspection report from a licensed building official/inspector.

Eligible Organizations and their contractors and real estate agents are required to comply with the requirements of 24 CFR part 35, and applicable Minnesota Department

of Health regulations dealing with the evaluation and treatment of lead-based paint and the sale of pre-1978 housing.

The Lead Based Paint Regulations contained in 24 CFR part 35 require that all properties constructed prior to 1978 shall, to the greatest extent practicable, be free of lead based paint hazards. 24 CFR part 35 subpart A, requires the sellers of housing to make specific disclosures of lead and lead based paint hazards known to exist within the housing being sold. Other provisions of the regulations include the form the disclosures must take, required language in the purchase agreement permitting the buyer to inspect the house for lead and to cancel the transaction within ten days, and certain record keeping requirements.

24 CFR part 35 prescribes the appropriate approach to lead-based paint and lead-based paint hazards depending, in part, on the type of activity financed with the HOME Funds. HUD has determined that the MURL Program is predominantly a rehabilitation program and, as such, even if HOME Funds are used only for acquisition of property, subpart J of part 35 dealing with rehabilitation applies rather than subpart K dealing with acquisition.

To reduce the likelihood of major home repairs during the early years of ownership and to provide safe, sound, sanitary housing to Homebuyers under the Program, at the time of sale the property must meet all applicable local housing quality standards and code requirements. If there are no such standards and codes, the housing must meet the housing quality standards of 24 CFR §982.401.

#### **XIV. ELIGIBLE IMPROVEMENTS**

Each rehabilitation improvement must be a permanent general improvement made in compliance with all applicable state, county and municipal health, housing, building, fire prevention, and housing maintenance codes, or other public standards. Permanent general improvements include additions, alterations, renovations or repairs that preserve or improve the basic livability, safety, energy efficiency, utility or value of the property, or to provide for better accessibility for handicapped persons. Permanent general improvements do not include materials, fixtures or landscaping of a type or quality exceeding that customarily used in the locality for properties of the same general type as the subject property. "Luxury" improvements such as the construction of a swimming pool, outdoor hot tub, etc., are not eligible under the Program.

Improvements that do not become a permanent part of the real property (*e.g., freestanding stove and refrigerators, etc.*) are ineligible costs to HOME. These items can be paid for using leveraged resources that are not HOME funds. Additions or alterations to provide for commercial use of the property are also not eligible.

#### **XV. DEMOLITION/REMOVAL AND NEW CONSTRUCTION**

If the Eligible Property requires extensive rehabilitation, and documentation is submitted to MHFA showing it would be less expensive to demolish/remove and

construct a new single-family unit rather than rehabilitate the property, this may be allowed on a case-by-case basis.

The number of housing units on the lot may not be decreased or increased as part of the construction process; but the number of rooms per unit may be increased or decreased (i.e., if there was previously a 2-bedroom structure, it may be replaced by a structure containing 3-bedrooms).

The housing must be sold and occupied by persons who meet the income limits of this Program. At the time of sale the newly constructed structure must meet the state building code.

The housing must be modest and cannot exceed the sales price limits in Chapter Five, Part III. The Maximum HOME Cost Limitations cannot be exceeded and these limits are listed in Chapter Three, Part III.

To request MHFA approval the Eligible Organization must complete the MURL Project Information/Financial Work Sheet that compares the cost of acquisition/rehabilitation alternative to acquisition/demolition-removal/new construction alternative. Upon review of the Project Information/Financial Worksheet and supporting documentation, MHFA staff will inform you of the decision within 5 working days of receipt. The following information must be submitted with Worksheet for review by MHFA staff:

For both rehabilitation and new construction alternatives:

- Acquisition Costs
- Developer fee
- Appraisal fee
- Statutory Checklist

For rehabilitation alternative:

- Rehabilitation Scope of Work, cost estimates or bids

For new construction alternative:

- Bids to demolish and remove the existing structure;
- Bids to prepare the site for new construction (i.e. removal of existing foundation, leveling of lot, etc.)
- Construction Costs Estimates or Bids
- Plans for the new owner-occupied structure to be built
- And other relevant costs/documentation for each category above.

If the existing lot is determined to be unbuildable by city officials (i.e., the sewer and/or water connections must be updated) any work necessary to make the existing lot buildable must be completed prior to commencement of construction.

An environmental review must be completed for all properties utilizing HOME Funds.



## **XVII. FUNDS DISBURSEMENT**

Eligible Organizations initially request the first draw of funds by using the MHFA Project Set-up Request Form. Subsequent draws are made using the standard draw request form.

Funds will be disbursed to an Eligible Organization on a property-by-property basis. There will be a maximum of five (5) separate disbursements for each property. Only acquisition, closing, rehabilitation, developer costs and other costs associated with the development are eligible expenditures.

The disbursement request must only be for actual project costs incurred. If the disbursement is greater than the actual project cost, those funds must be returned immediately to the MHFA.

A written request by the Eligible Organization must be submitted along with a revised set up form if additional funds are required because of an increase in the initial project cost. At no time can an increase exceed the total amount awarded to the Eligible Organization.

## **XVIII. DEVELOPMENT COSTS**

Eligible Organizations may request a maximum developer's fee of up to 10% of the MURL Funds awarded to help with payment of development costs.

Development Costs may include, but are not limited to the following items:

- A. Architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups.
- B. Costs to process the financing for a project, such as private lender origination fees, credit reports, fees for the title evidence, fees for recordation and filing of legal documents, building permits, attorney fees, private appraisal fees and fees for an independent cost estimate and builders or developers fees.
- C. Costs of any project audit that a participating jurisdiction may require with respect to the development of the project.
- D. Costs to provide information services such as affirmative marketing and fair housing information to prospective homeowners as required by section 92.351 of the HOME Regulations.
- E. Staff and overhead costs directly related to carrying out a project, such as the preparation of work specifications, loan processing, inspections, and other services related to assisting potential owners and homebuyers.

Eligible Organizations are directed to Section 92.206 of the HOME Regulations pertaining to such costs.

## **XIX. ENVIRONMENTAL REVIEWS**

MHFA will determine whether a project is “categorically excluded” and/or “exempt” from information submitted by the Eligible Organization using the statutory checklist, which requires review of the following items:

- Contamination and toxic substances;
- Explosive and flammable operations (when making a building that has been vacant for more than one year habitable);
- Floodplain management (if rehabilitation costs will exceed 50% of pre-rehabilitation value);
- Historic preservation.
- Air quality.
- Airport hazards.
- Coastal zone management.
- Endangered species.
- Environmental justice.
- Explosive and flammable operations.
- Farmland protection.
- Noise control.
- Water quality (sole source aquifers).
- Wetland protection.
- Wild and Scenic Rivers.

For assistance on how to fill out the environmental review statutory checklist, please refer to the Statutory Worksheet Manual.

As a way to permit moving a project forward in a manner that does not limit the choice of reasonable alternatives while awaiting completion of the environmental review, HUD permits the purchase of a real estate option on a property prior to completion of the environmental review, provided the option agreement stipulates that the purchase of the property is subject to a determination by the MHFA that the property is desirable from an environmental standpoint, and the cost of the option is a nominal portion of the Purchase Price. The cost of options for properties determined to not be environmentally suitable may not be paid with HOME Funds.

Once complete, the statutory checklist must be submitted to MHFA for a determination as to the project’s status as an exempt activity, or a categorically excluded activity. If determined to be “exempt,” MHFA will promptly notify the Eligible Organization and the project may proceed.

If the project is determined to be categorically excluded and not exempt, MHFA will notify the Eligible Organization, which shall publish and distribute the “Notice of Intent to Request Release of Funds” in accordance with the requirements of 24 CFR Part 58

and provide copies to MHFA. The notice shall direct the reader to submit comments to the following address:

Minnesota Housing Finance Agency

Attn: MURL - NOIRROF

400 Sibley Street, Suite 300

St. Paul, MN 55101

Following the comment period, MHFA will submit a “Request for Release of Funds and Certification” to HUD. MHFA will promptly notify the Eligible Organization that the project may proceed when it receives an “Authority to Use Grant Funds” form from HUD.

Whether the project is deemed exempt or categorically excluded, the Eligible Organization shall not do anything in relation to the project that would have an adverse environmental impact or limit the choice of reasonable alternatives before MHFA gives its approval to proceed with the project.

## **CHAPTER FOUR: ELIGIBLE HOMEBUYERS**

### **I. GENERAL**

Minnesota residents wishing to purchase an Eligible Property from the Eligible Organization under the MURL Program must meet the Program requirements and eligibility criteria set forth in this Chapter.

### **II. FIRST TIME HOMEBUYER REQUIREMENT**

Homebuyers must be first-time homebuyers.

In general a first time homebuyer is defined by MHFA is an individual and/or family who have not held an ownership interest in a Principal Residence in the last 3 years. (See definition of first-time homebuyer in Appendix One for exceptions.)

The Eligible Organization must verify the status of the homebuyer by reviewing the homebuyer's past three years of federal income tax returns. Income tax returns are the primary reference as to whether or not the homebuyer declared a mortgage interest or real estate tax deduction evidencing ownership of a previous home. While such deductions on past federal income tax returns are not necessarily proof positive that the homebuyer previously owned a home, it is an Eligible Organization's responsibility to further investigate the situation to determine final eligibility regarding this requirement.

### **III. OWNER OCCUPANCY REQUIREMENT**

Each homebuyer who purchases a home from the MURL Program must occupy the Eligible Property as a Principal Residence within 60 days following conveyance of fee simple title from the Eligible Organization to the homebuyer and for the full term of the period of the downpayment assistance mortgage note.

### **IV. HOUSEHOLD INCOME LIMITS**

The Eligible Organization may establish income limits for the Program, which they deem appropriate for a particular Designated Area, but under no circumstances may the homebuyer's Gross Annual Income exceed levels that would not qualify the household as low-income at the time of purchase. Specifically, the Gross Annual Income of the Household may not exceed 80% of median income for the area as determined by HUD with adjustments for smaller and larger families.

In calculating Household Gross Annual Income under this Section, an Eligible Organization must project income *for 12 months* as of the date of application from all sources and before taxes or withholding for all residents living in an Eligible Borrower's

Household as provided in 24 CFR Part 5.609. Income to be projected includes, but is not limited to salary, commissions, bonuses, earnings from part-time employment, interest, dividends, tips, gains on sale of securities, annuities, pensions, royalties, veterans administration compensation, net rental income from all sources, alimony, child support, public assistance, sick pay, social security benefits, income received from business activities or investments, unemployment compensation, estate or trust income, and other miscellaneous income.

All sources of income must be verified in accordance with one of the following provisions and copies retained in the homeowner's file:

- Written verification from employers or other income providers.
- A minimum of four recent check stubs.
- Current Social Security, veteran's administration pension, or Minnesota Family Investment Program award letters.
- Deposit slips, bank statements showing regular automatic deposits of funds.
- Income from self-employment should be based on the average of the last two years of income.

## **CHAPTER FIVE: CONVEYANCE AND RECAPTURE OF HOME SUBSIDY**

### **I. CONVEYANCE**

The Eligible Organization will convey fee simple title to the homebuyer via a warranty deed. Contracts for Deed are not an eligible form of financing or conveyance.

### **II. SALE PRICE LIMITS**

The sales price to the eligible homebuyer shall be the market value.

The market value of the property shall not exceed the sale price limits set forth below, as adjusted from time to time by HUD. Market value shall be determined by an appraisal conducted by a qualified appraiser either after completion of rehabilitation, or before rehabilitation but taking into consideration the effect of anticipated rehabilitation on value. A qualified appraiser is an appraiser approved to conduct appraisal for the Federal Housing Administration, Veterans Administration, Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation.

Minneapolis/St. Paul MSA*	\$276,683
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All Other Counties	\$200,160
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\*Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington and Wright Counties.

### **III. FINANCING**

Each homebuyer acquiring property under the Program will receive downpayment assistance from the Eligible Organization in the amounts and under the conditions described in the following paragraph. First mortgage financing must carry a fixed rate and be fully amortized; i.e., no balloon payments.

### **IV. DOWNPAYMENT ASSISTANCE**

A. Downpayment Assistance Requirements. The Eligible Organization shall provide downpayment assistance to each homebuyer as a zero percent interest rate deferred loan secured by a second mortgage payable to the Eligible Organization. After origination, the Eligible Organization must assign its interest in the mortgage note to the order of the Minnesota Housing Finance Agency. Downpayment assistance must be in an amount of at least \$1,000 but not more than \$14,500. An Eligible Organization may exceed the maximum downpayment assistance amount with approval from MHFA via the Downpayment Assistance Plan, but under no circumstances may the downpayment assistance provided exceed \$39,999.99. However, to avoid providing excessive subsidy and to encourage buyers to invest in their home purchase, homebuyers may not have liquid assets after closing in excess of \$5,000.

Upon approval from MHFA, the Eligible Organization can provide a forgivable, deferred mortgage with a term of either five (5) or ten (10) years. Forgiveness will follow this schedule:

- 20% per year for a five (5) year term; and,
- 10% per year for a ten (10) year term.

The term of the deferred mortgage will be dependent upon the amount of downpayment assistance provided:

- Between \$1,000 and \$14,999.99, the term shall be for 5 years; and
- Between \$15,000 and \$39,999.99, the term shall be for 10 years.

The housing payment ratio (monthly principal, interest, taxes, insurance divided by gross monthly income) may be calculated by either the Eligible Organization or the homebuyer's mortgage lender in accordance with the Downpayment Assistance Plan and shall not be lower than 25% (the "housing ratio floor"), except in an instance where providing the minimum downpayment of \$1,000, or such other minimum amount required by the Downpayment Assistance Plan, will result in a ratio that is lower than the permitted housing ratio floor.

B. Downpayment Assistance Plan. The Eligible Organization must provide MHFA with its written plan for how it will comply with the requirements stated above. The plan must be submitted before any homes can be sold and must describe:

- Whether the Eligible Organization plans to adopt requirements in addition to the Downpayment Assistance Requirements stated in Section A above;
- How the Eligible Organization will allocate amounts that are greater than the \$1,000 minimum assistance using a needs-based test or formula;
- Any needs-based test or formula that is not housing payment ratio based (ie household size, income level, etc), if using such a test or formula.
- Whether the Eligible Organization or the mortgage lender will calculate the housing payment ratio;
- If the Eligible Organization will calculate the housing payment ratio, the process it will use;
- The maximum amount of downpayment assistance that the Eligible Organization will provide to any individual household;
- Whether the Eligible Organization will adopt and implement a forgivability component to the deferred loan; and
- The housing ratio floor that will be implemented, if greater than 25%.

## **V. RECAPTURE OF DOWNPAYMENT ASSISTANCE**

Downpayment assistance is secured with a deferred loan promissory note and mortgage payable to the Eligible Organization. The mortgage must be recorded

immediately after the first mortgage. Eligible organizations must work closely with the lender that provides the first mortgage and its closing agent to ensure that necessary signatures are obtained and documents timely recorded.

Downpayment assistance may need to be repaid to the Eligible Organization when the homebuyer sells the property, refinances, transfers the property, moves from the property, or pays off the first mortgage according to the terms of the Mortgage Note. Recaptured downpayment assistance must be paid back to MHFA once those funds are recaptured by the Eligible Organization.

## **VI. USE OF PROCEEDS OF PROPERTY SALES**

The Proceeds of Property Sales must be paid back to MHFA once those funds are received by the Eligible Organization at the time of closing for the property sale to the Homebuyer.



## **CHAPTER SIX: REPORTING/RECORDKEEPING REQUIREMENTS**

### **I. GENERAL**

An Eligible Organization must forward to MHFA any information pertinent to the Program. The purpose of this information is to allow MHFA to monitor the progress of the Program, evaluate the implementation and impact of the program, and monitor compliance with HOME Regulations.

### **II. REPORTING REQUIREMENTS – FIRST USE OF FUNDS**

#### **A. Project Reports**

Certain reports are required to be forwarded to MHFA on a project-by-project basis.

1. When the initial draw request for Acquisition funds is submitted the following documents must be attached:

- MHFA Project Set-up Form
- Statutory Checklist including all necessary documentation
- Copy of the Purchase Agreement
- Copy of the Settlement Statement upon purchase of the property by the Eligible Organization
- Exhibit C or D Forms

2. Construction Draw requests do not require that documentation be submitted; however, documentation must be retained by the Eligible Organization and produced upon MHFA's demand.

3. The following documentation must be attached to the final draw request

- Copy of the recorded Warranty Deed from Seller to Eligible Organization
- Lead Based Paint Checklist
- Accepted bids
- Bid Summary Form
- MHFA Project Summary Form

4. The following documentation must be submitted immediately after the sale of the property to a homebuyer.

- Household Demographic/Project Information Form.
- Copy of the executed purchase agreement between Eligible Organization as Seller and the homebuyer.

- Copy of the executed “Minnesota Urban and Rural Homesteading Program Mortgage.” A copy with recording information must be submitted after it has been recorded or registered.
- Copy of the executed “Minnesota Urban and Rural Homesteading Program Mortgage Note.”
- Copy of the Warranty Deed from the Eligible Organization to the Buyer. A copy of the recorded Warranty Deed showing recording information must be submitted after it as been recorded or registered.

#### B. Annual Program Reports

The following reports are required and must be submitted by the Eligible Organization on an annual basis.

1. The Section 3 Employment and Training Report must be completed by an Eligible Organization if they were awarded a project grant in excess of \$200,000 and if a contractor/subcontractor has a contract with the Eligible Organization in excess of \$100,000 per project. This report, stating the hiring and training practices regarding Section 3, must be completed and submitted no later than September 30th of each year.
2. The Applicant Tracking Form must be completed by each Eligible Organization during the timeframe they are actively marketing a MURL home. The report will summarize the status and outcome of all applications to purchase a MURL home. This report must be submitted twice a year for the periods ending **March 31<sup>st</sup>** and **September 30<sup>th</sup>** of each year.

### III. RECORDKEEPING REQUIREMENTS

The Eligible Organization is responsible for the maintenance of certain records, which indicate compliance with MURL requirements. They include, but are not limited to:

#### A. Individual Project Records:

1. Records that demonstrate that each Eligible Property meets the property standards in Chapter Three, Section XIII of this Procedural Manual.
2. Records that demonstrate compliance with the requirements in Section 92.254 of the HOME Regulations for affordable homeownership including the initial Purchase Price and “after rehabilitation” appraisal of the property.
3. Records demonstrating compliance with Uniform Relocation and Acquisition Act and regulations.

#### B. Other Federal Requirements/Records:

1. Equal opportunity and fair housing records containing:

- a. Data on the extent to which each racial and ethnic group and single-headed Households (by gender of Household head) have applied for, participated in, or benefited from, any program or activity funded in whole or in part with HOME Program funds.
  - b. Documentation of actions undertaken to meet the requirements of 24 CFR Part 135, which implements Section 3 of the Housing Development Act of 1968, as amended (12 U.S.C. 1701u).
  - c. Documentation of the affirmative steps taken to assure that small and minority-owned and female-owned businesses are used when possible (see requirements of Chapter 3, Section IX).
  - d. Documentation of the success of the affirmative steps taken to assure minority and women-owned businesses are used when possible, including data indicating the racial/ethnic or gender character of each business entity receiving a contract or subcontract paid, or to be paid, with HOME Funds; and the amount of the contract or subcontract. The Employment and Training form is to be utilized in tracking the data.
  - e. Documentation of the actions the Eligible Organization has taken to affirmatively further fair housing; including Records indicating the affirmative marketing procedures and requirements under Section 92.351 of the HOME Regulations.
2. Records that demonstrate compliance with environmental review requirements in Section 92.352 of the HOME Regulations.
  3. Records the demonstrate compliance with the lead-based paint requirements of 24 CFR part 35.
  4. Records supporting requests for waivers of the conflict of interest prohibition in Section 92.356 of the HOME Regulations.

MHFA, the Legislative Auditor for the State of Minnesota, HUD and the Comptroller General of the United States, or any of their representatives, have the right of access to any pertinent books, documents, papers or other records of the Eligible Organization, in order to make audits, examinations, excerpts, and transcripts. MHFA reserves the right to make site visits at any stage of the process from acquisition through occupancy, with reasonable notice to the Eligible Organization or homebuyer.

## **CHAPTER SEVEN: WARRANTIES**

### **I. ELIGIBLE ORGANIZATION WARRANTIES**

By entering into and executing a Grant Funding Agreement, the Eligible Organization did thereby agree to make and did make the following warranties to MHFA and its assigns:

- A. It is either a political subdivision of the State of Minnesota or a nonprofit entity that has as a primary purpose the providing or development of affordable housing for low- and moderate-income persons or Households and qualifies as an Eligible Organization under the MURL Program.
- B. It will comply with all of the requirements imposed upon an Eligible Organization under the MURL Program rules, HOME regulations and this Procedural Manual.
- C. It has legal authority to transact business in the State of Minnesota.
- D. It has legal authority to enter into, execute and deliver the Grant Funding Agreement and all other documents referred to herein, and it has taken all actions necessary and incident to its execution and delivery of such Agreement and such other documents.
- E. It is not in violation of any provisions of its organizational documents or of the laws of the State of Minnesota, and there are no actions, suits or proceedings pending, or to its knowledge threatened, before or by any judicial body or governmental authority, against or effecting it, and it is not in default with respect to any order, writ, injunction, decree, or demand of any court or any governmental authority that would impair its ability to enter into the Grant Funding Agreement or to perform any of the acts required of it in such Agreement or any document referred to herein.
- F. Neither the execution and delivery of the Grant Funding Agreement, nor compliance with any of the terms, conditions, requirements or provisions contained herein, is prevented by, is a breach of, or will result in a breach of any term, condition or provision on any agreement or document which it is now a party or by which it is bound.
- G. It will maintain adequate capital and personnel for the proper operation and administration of its duties under the Program.

- H. It will comply with all of the terms, conditions, provisions and requirements, contained in the Grant Funding Agreement, the HOME Regulations, and the Program Procedural Manual.
- I. It will comply with the Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Lower Tier Covered Transactions.
- J. All of the representations contained in the Eligible Organization's Proposal are true and correct, and it will comply with all such representations.

## **APPENDIX ONE: DEFINITIONS**

The following terms shall have the meanings set forth unless an exception is clearly made in another section of this Procedural Manual to indicate otherwise. Definitions appear in alphabetical order to enable the reader to locate them quickly while using this Procedural Manual.

### **APPLICANT**

Applicant means an individual or Household that completes an “Application to Purchase a Minnesota Urban and Rural Homesteading House with Financial Assistance” and meets the requirements of the MURL Program.

### **BID SUMMARY FORM**

Listing of contractors that were mailed bids, dates mailed, date received, and contractor selected.

### **COMMUNITY HOUSING DEVELOPMENT ORGANIZATION**

A Community Housing Development Organization is a private, nonprofit housing organization that has among its purposes the provision of decent housing that is affordable to low income persons, as evidenced by its charter, articles of incorporation, or bylaws and which meets all the provisions contained in Section 92.2 of the HOME Regulations.

### **DEFECTIVE PAINT SURFACE**

Defective paint surface means paint on applicable surfaces that are cracking, scaling, chipping, peeling, or loose.

### **DESIGNATED AREA**

A Designated Area is an area specified by the Eligible Organization in which it may acquire, rehabilitate, and sell Eligible Property under the Program.

### **DOWNPAYMENT ASSISTANCE**

A direct subsidy in the form of a deferred zero interest rate loan, secured with a junior lien.

## **ELIGIBLE ORGANIZATION**

An Eligible Organization is an organization that has been selected to participate in and receive a grant under the MURL Program.

## **ELIGIBLE PROPERTY**

An Eligible Property is a single family residential property, located within a Designated Area, that is vacant, condemned, boarded up, vacant, or identified as desirable for purchase and rehabilitation or after approval by the MHFA for demolition/removal of existing structure and new construction of a single family unit by the Eligible Organization, which, if rehabilitated, may prevent or arrest the spread of blight.

## **FAIR MARKET VALUE**

An Eligible Organization's estimate of the value of a property it proposes to purchase with HOME funds, established through an objective method by a person familiar with real estate values. Such methods would include, but not necessarily be limited to, an appraisal by a qualified appraiser, documented market analysis of values of similar properties recently sold in the area or the assessed value. In all cases, documentation supporting the estimate shall be kept in the Eligible Organizations project file and be available for MHFA's inspection. This definition of Fair Market Value does not apply to establishing the value of the home for resale to a low-income household. (See "Market Value.")

## **FIRST-TIME HOMEBUYER**

A First-Time Homebuyer is an individual and his or her spouse who has not owned a home during the three-year period before the purchase of a home under the Program except that:

- A. Any individual who is a "displaced homemaker" may not be excluded from consideration as a First-Time Homebuyer under this paragraph on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse; and
- B. Any individual who is a "single parent" may not be excluded from consideration as a First-Time Homebuyer under this paragraph on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

## **GRANT FUNDING AGREEMENT**

Grant Funding Agreement is the legal contract that is executed by the MHFA and the Eligible Organization, which allows for MURL Grant Funds to be disbursed.

## **GROSS ANNUAL INCOME**

Gross Annual Income means the income from all sources before taxes and withholding of all residents in the Household, age 18 and over, that is anticipated to be received during the 12 months following the date of certification, and either the income of a nonresident spouse or payments a nonresident spouse is required to make under separate maintenance agreement. A nonresident spouse's income or payments that are required under a separate maintenance agreement but are not paid may be excluded if satisfactory evidence that the payments are not being made is received. Gross annual income for self-employment or other variable sources of income are projected using an average from the two most recent calendar years.

## **HOME FUNDS**

HOME Funds means all Federal appropriations for the HOME Program awarded to the Eligible Organization in the Grant Funding Agreement.

## **HOME PROGRAM**

HOME Program refers to the Federal HOME Investment Partnerships Program, which is administered by HUD under the National Affordable Housing Act pursuant to the HOME Regulations

## **HOME REGULATIONS**

HOME Regulations refer to 24 CFR part 92 implementing the HOME Investment Partnerships Program.

## **HOUSEHOLD**

Household is an applicant/Borrower and any other residents who occupy a room or rooms constituting a Principal Residence.

## **HUD**

United States Department of Housing and Urban Development

## **LIEN WAIVER**

Lien Waiver is a legal document that is executed by a contractor, subcontractors and material suppliers under which they relinquish any right they may have to place a lien on the property for work performed or materials supplied.



**LOW INCOME**

Households with a Gross Annual Income at or below 80% of the area median income, as adjusted for family size.

**MARKET VALUE**

The market value of a property to be sold to a homebuyer will be established by an appraisal conducted by a qualified appraiser either after completion of rehabilitation, or before rehabilitation but taking into consideration the effect of anticipated rehabilitation on value. This definition does not apply to the acquisition of housing by an Eligible Organization. (See Fair Market Value.)

**MHFA**

Minnesota Housing Finance Agency.

**MURL GRANT FUNDS**

The proceeds of the MURL Grant Funding Agreement.

**PRINCIPAL RESIDENCE**

Principal Residence means the property which the homebuyer regularly occupies as their main dwelling place for at least nine months of the year.

**PRIOR APPROVAL**

Prior Approval refers to written approval from MHFA for demolition/removal of an existing structure and the new construction of a single family unit on an Eligible Property.

**PROCEDURAL MANUAL**

Procedural Manual or Manual refers to this Minnesota Urban and Rural Homesteading Procedural Manual.

**PROGRAM**

Means the Minnesota Urban and Rural Homesteading Program.

## **QUALIFIED APPRAISER**

A qualified appraiser is an appraiser approved to conduct appraisals for the Federal Housing Administration, Veterans Administration, Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation.

## **SALES PRICE**

Sales price means the market value of the property, as established by a qualified appraiser.

## **REQUEST FOR PROPOSAL**

A formal request notifying the public that MHFA is accepting written proposals for consideration of funding under some or all of their programs.

## **SCOPE OF WORK**

Scope of Work is a detailed outline of the necessary rehabilitation work to be completed on the property.

## **SECTION 3**

The Housing and Urban Development Act of 1968 and regulations at 24 CFR Part 135 require that certain recipients of HUD funding contribute to the economic advancement of low or very low-income persons and for the businesses they own or that employ them to the maximum extent feasible. Work completed under MURL may be subject to Section 3 if the Eligible Organization was awarded federal assistance in the excess of \$200,000 through the RFP process or contractors and/or subcontractors are awarded a contract in the excess of \$100,000 for a specific project.

## **SWORN CONSTRUCTION STATEMENT**

Sworn Construction Statement is a sworn statement of fact made by a general contractor that lists all of the work to be performed on a project, the subcontractors who will perform the listed work, material suppliers who will supply materials for the listed work, and the cost of each individual item of work and item of material that will be supplied.

Underserved Populations are identified as individuals and/or Households of color, single female head of Households with minor children, and disabled individuals.

## APPENDIX TWO: MINNESOTA URBAN AND RURAL HOMESTEADING PROGRAM STAFF

NAME	PHONE NUMBER	RESPONSIBILITIES
<b>Robert Russell</b> Housing Program Professional	651-296-9804 800-710-8871	Policy, administrative and general questions.
<b>TTY</b>	651-297-2361 800-710-8871	Telecommunications Device for Hearing Impaired
<b>Fax</b>	651-296-8292	
<b>Internet E-mail</b>	robert.russell@state.mn.us	



**Minnesota Housing Finance Agency,**  
400 Sibley Street, Suite 300,  
St. Paul, MN 55101

### **APPENDIX THREE: SUGGESTED COMBINED TENNESSEN WARNING AND PRIVACY ACT NOTICE**

Private data requested to enable processing of your application is legally required to determine if you qualify for participation in this Minnesota Housing Finance Agency (MHFA) program and to help MHFA manage the program.

Financial information, such as income, credit reports, financial statements and net worth calculations, are classified as private data on individuals by Minnesota Statutes 462A.065. Other data that are requested and not described above are classified as private data on individuals under Minnesota Statutes 13.462 subdivision 3. You are not required to provide this information; but if you do not provide it, we may be unable to determine your eligibility for this program and approve your application. The information will be shared with the Minnesota Housing Finance Agency (MHFA) staff whose jobs require them to see it. Where access to the data is authorized by state statute or federal law, it may be made available to others as so authorized, including the U.S. Department of Housing and Urban Development.

Your name, address, and amount of assistance you apply for and receive are classified as public data under Minnesota Statutes 13.462 subdivision 2.